

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

\$24,010.00 UNITED STATES  
CURRENCY,

Defendant.

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ORDER

07-cv-637-bbc

Plaintiff United States of America has moved to strike the claim and answer of Mikell Brown and issue a default judgment conveying all right, title and interest in the defendant currency to plaintiff. The motion will be granted.

Plaintiff filed a verified complaint of forfeiture in rem against defendant \$24,010.00 on November 5, 2007. Plaintiff alleged that the defendant currency was furnished or intended to be furnished in exchange for a controlled substance, was proceeds traceable to such an exchange or was money used or intended to be used to facilitate a violation of Title II of the Controlled Substances Act, 21 U.S.C. § 801 et seq., and therefore was subject to forfeiture under 21 U.S.C. § 881(a)(6).

Claimant Mikell Brown filed a claim to the defendant property on December 26, 2007. On February 21, 2008, he filed an answer to the complaint. Notice of the forfeiture complaint had been published in the Leader Telegram on December 31, 2007, stating that any interested party was to file a claim within 30 days of the publication. No one other than claimant Brown filed such a claim.

On August 18, 2008, plaintiff filed a motion to compel discovery. On September 3, 2008, the court ordered claimant to provide all requested discovery no later than September 8, 2008. No discovery was provided. Plaintiff seeks dismissal of the claim as a sanction for claimant's failure to comply with the discovery order. Claimant has not responded to plaintiff's motion.

Claimant cannot be surprised by plaintiff's motion to strike his claim and answer and secure a default judgment. The magistrate warned claimant in his September 3, 2008 order requiring the production of the materials sought by plaintiff that if he failed to comply, sanctions would be imposed and they could include dismissal of the claim. That day has arrived and claimant has filed no objection or sought to justify his failure to comply with the discovery order. It is apparent that he is not inclined to pursue his claim.

Plaintiff has shown that it is entitled to an order striking claimant's claim and answer and entering default judgment in plaintiff's favor, including showing that no person other than claimant Mikell Brown has asserted a claim in this case.

ORDER

IT IS ORDERED that the claim and answer filed by claimant Mikell Brown are STRUCK as a sanction for claimant's failure to comply with the discovery order of the United States Magistrate Judge and default judgment is entered in favor of plaintiff United States of America. The clerk of court is directed to enter judgment in favor of plaintiff in the amount of \$24,010.00.

Entered this 22<sup>nd</sup> day of September, 2008.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge